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Supreme Court of the United States

OCTOBER TERM, 1905.

No. 129

Office Supreme Court U. S.
FILED
FEB 14 1906
JAMES H. McKENNEY,
Clerk

THE COUNTY COMMISSIONERS OF WICOMICO COUNTY
Petitioners

VS.

SAMUEL BANCROFT, JR.,
Respondent.

MOTION ON BEHALF OF THE PETITIONERS TO ADVANCE CASE FOR HEARING.

JAMES E. ELLEGOOD,
Attorney for Petitioners

Brewington Bros. Co., 103 Main Street, Salisbury, Md.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1905.

NO. 424.

THE COUNTY COMMISSIONERS OF WICOMICO COUNTY

vs.

SAMUEL BANCROFT, JR.

MOTION ON BEHALF OF PETITIONERS TO ADVANCE THE ABOVE CASE FOR HEARING, WITH REASONS FOR SAME.

The Petitioners respectfully pray the Court to advance the hearing of the above cause, and beg leave to assign reasons therefor as follows:

FIRST. It is a case involving revenue to the County of Wicomico to a large amount, whereby the county is much embarrassed, as well financially as in the rights and duties of the Commissioners themselves.

It will be seen from the Record that it involves a conflict of decisions between the Court of Appeals of Maryland and the United States Circuit Court for the District of Maryland, by a comparison of the case of the Baltimore, Chesapeake and Atlantic Railway Company vs. County Commissioners of Wicomico County, 93 Md., 113, with the case before this Court.

SECOND. The Record shows that an injunction was granted by the U. S. Court forbidding assessment of a part of the property of the Baltimore. Chesapeake and Atlantic Railway Co. now in controversy, which the Maryland Court of Appeals had decided was liable to assessment.

The Plaintiff below, Mr. Bancroft, as well as the Baltimore, Chesapeake and Atlantic Railway Company, disputed the liability of the railway company for any part of the taxes, so that the whole amount of taxes for the year 1900 inclusive to the year 1905 inclusive are still unpaid.

THIRD. The whole assessable basis of the county amounts to about $6,000,000.00 only, while the amount involved in this case amounts to $645,607.00, (Rec. pp, 32-34) the annual revenue therefrom being over $5,000.00, making more than $30,000.00 unpaid, to say nothing of accrued interest.

FOURTH. Aside from the financial embarrassment, the Petitioners are in the awkward dilemma of being compelled to obey the injunction of the U. S. District Court and omitting to assess and collect taxes upon the property decided by that Court to be exempt; or on the other hand, of following the decisions of the Court of Appeals of Maryland, which had previously decided that this property should be assessed and taxed and which had been assessed before the injunction.

If the Petitioners should strike from the assessment books, or omit to assess, the property which has been decided to be exempt by the U. S. District Court, and this Honorable Court should decide otherwise, then your Petitioners would be de-

barred from levying back taxes, under the decision in the case of *Baltimore, Chesapeake and Atlantic Railway Co. vs. County Commissioners of Wicomico County*, 93 *Md. 113*, which decides that the powers of the County Commissioners are exhausted in each current year.

It will be seen from the decision of the Baltimore, Chesapeake and Atlantic Railway Co. *supra* that the county lost the taxes for three years prior to 1899, because of their failure to assess and levy prior to that year.

Because of these legal and financial embarrassments, and the uncertainty of the status and duties of both the County Commissioners and the Railway Company, it is respectfully submitted that the exigencies of the case require a speedy hearing, to the end that they may be determined, and the dispute and litigation may be brought to a close, which has been pending in divers shapes for the past six years.

Respectfully Submitted,

JAMES E. ELLEGOOD,

Attorney for Petitioners.

MR. JAS. H. MCKENNEY,

Clerk of the U. S. Supreme Court:

Please file the above motion, and oblige,

Jas. E. Ellegood

Attorney for Petitioners.